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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,998	03/02/2004	Joseph S. Ng	04-0143	4304
74576	7590	08/20/2008		
HUGH P. GORTLER 23 Arrivo Drive Mission Viejo, CA 92692			EXAMINER PLUCINSKI, JAMISUE A	
			ART UNIT	PAPER NUMBER
			3629	
			MAIL DATE	DELIVERY MODE
			08/20/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/791,998	<b>Applicant(s)</b> NG ET AL.	
	<b>Examiner</b> JAMISUE A. PLUCINSKI	<b>Art Unit</b> 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 7,8,27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7,8,27 and 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/27/08 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 7, 27 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Webb, Sr. (US 2004/0257225).

4. With respect to Claim 7: Webb discloses a method for maintaining the security of a cargo container during shipment from an origination point to a destination, wherein the cargo container comprises a container security unit (CSU) having a container identifier (See Paragraph 0047 and reference numerals 160 and 200, Webb discloses the container having an RFID tag, therefore has an identification, paragraph 0051), the method comprising the step of:

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- a. receiving an update from the CSU during the shipment of the cargo container (Paragraphs 0077 and 0081)
  - b. classifying the container to assess the level of threat presented as new data about the threat patterns and relationships are discovered during shipment (Webb discloses the use of a process for security status, Figure 13 Reference numeral 620, and discloses a process for pattern analysis on the data transmitted from the CSU during the shipment to determine if the container is tampered, Reference numerals 930 and 970, and when a threat condition is detected, transmitting an alert, Reference numerals 940 and 942, the examiner considers this to be classifying the container to access the level of threat, see corresponding detailed descriptions as well as Paragraph 0070).
5. With respect to Claim 27: Webb discloses the use of a system for maintaining security of a cargo container during shipment from an origination point to a destination (See abstract) comprising:
- c. Means for determining geographic location of the cargo container during shipment from the origination point to the destination (Reference numerals 142, 241 with corresponding detailed descriptions and Paragraphs 0056 and 0057); and
  - d. A battery-powered (paragraph 0069) container security unit (200) for the container, the CSU reporting on status of the cargo container during the shipment (Reference numerals 270, 237 and Paragraph 0068). Webb discloses reporting and transmitting the data periodically and transmits only within range of the satellite, (Paragraphs 0073, 0078, 0084 and 0098), however the reporting being done on a frequency that is a function of the geographic location of the container, in considered to

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be intended use system. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987), *In re Paulsen*, 30 F. 3d 1475, 31 USPQ 2d 1671 (Fed. Cir. 1994). The claim is directed to a system, which is in essence an apparatus claim, which is held to the structural limitations. Webb discloses all the structural limitations of the claim, therefore anticipates Claim 27.

6. With respect to Claim 28: Webb discloses the use of a CSU bridge for communication with the CSU (See Paragraph 0077).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Webb, Sr. (US 2004/0257225) in view of Easley et al. (7,098,784).

10. With respect to Claim 8: Webb discloses the use of providing a security status and identifies threats which trigger alarms which are based on sensors (See above), however fails to disclose the alarm being triggered when a score exceeds a predetermined threshold. Easley discloses the use of threat detectors and sensors for monitoring shipping containers where when one of the sensors values reach a threshold, the alarm will be triggered. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Webb, to include the threshold limits of the threats and the alarm being triggered in order to allow action to be taken in the event of a threat and to allow for troubleshooting of the containers of the handling system (See Easley, Columns 3, 4 and 7).

### ***Response to Arguments***

11. Applicant's arguments with respect to claims 7, 8, 27 and 28 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMISUE A. PLUCINSKI whose telephone number is (571)272-6811. The examiner can normally be reached on M-Th (5:30 - 4:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jamisue A. Plucinski/  
Examiner, Art Unit 3629